IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 508 OF 2007

Prashant Ramchandra Joshi .... Applicant

Vs.

The State of Maharashtra .... Respondent

Mr. S.R. Chitnis, senior Counsel with Mrs. V.R. Raje for the Applicant.

Mr. Y.S. Shinde, APP for the Respondent.

CORAM : J.H. BHATIA, J.,
DATE : 13TH MARCH, 2007

P.C.

1) Heard Mr. Chitnis, learned senior Counsel for the applicant and Mr. Shinde, learned APP. Perused the investigation papers. The applicant who is accused no. 3 in Crime no. 250/2006 registered by Panvel Police Station for the offences punishable under Sections 302, 201, 120-B of Indian Penal Code seeks to be released on bail.

2) Prosecution case in brief is that, there were some disputes between the deceased Navratan Bafna and Dilip Thakur on one hand and accused Nos. 1 to 3 namely Sandip Patil, Babu Shaikh and Prashant Joshi on the other hand. These three accused persons hatched a conspiracy to kill

Navratan Bafna and Dilip Thakur. For this purpose, they collected chilly power, knife and nylon rope. The accused persons called both the deceased at Visava Hotel, Panvel and from there they took them to Pargaon, Taluka Panvel under the pretext that they would show some land to them for sale. They took both the deceased near the Government Agricultural Farm at village Pargaon. After that they were taken to a lonely place. Accused no. 2 Babu Shaikh threw chilly powder into the eyes of deceased Dilip Thakur and gave blow of knife on his person. Accused No. 3 Prashant Joshi, who is the present applicant, also threw chilly powder into the eyes of Navratan Bafna and gave him fist blows. Thereafter accused no. 1 Sandip Patil and accused no. 3 Prashant Joshi strangulated said Navratan with nylon rope. All the three accused persons buried both the dead bodies and left Maruti Car of deceased Navratan Bafna near Kharghar bridge by the side of road. They burnt the clothes on their persons at the time of the offence with intention to cause disappearance of the evidence.

3) Initially there was a missing report and during the investigation on that report accused Sandip Patil came to be arrested. On the basis of information given by Sandip Patil, both the dead

bodies were recovered. Mobile hand-set of deceased Navratan Bafna was taken away by the present applicant Prashant. On the basis of information given by the present applicant, said Mobile hand-set of Navratan Bafna was recovered from his house. Gold ring of Navratan Bafna was sold by Sandip Patil to one Jewellers at Panvel, which was also recovered on the information given by him. As per the arrest panchanama, at the time of arrest of the present applicant, behind his little finger, one contusion was found and it was allegedly caused at the time of strangulating Navratan Bafna with nylon rope. There is no medical certificate on record in this respect. It was also disclosed during the investigation that the present applicant and Sandip Patil had been to one Mukhtar Ahmed, shopkeeper for purchase of a knife. Statement of said Mukhtar Ahmed was recorded on 28/6/2006 and according to him about 15 to 20 days before, the present applicant and Sandip Patil had been to his handcart and had demanded knife and after looking to the different knives, they selected one knife having handle with some design on it and it was purchased by Sandip.

4) Mr. Chitnis, learned senior Counsel for the applicant contended that there is no legally

admissible evidence and atleast there is no reliable evidence to establish the present applicant with the commission of offence. While on behalf of the prosecution, Mr. Shinde, learned APP contended that the case is based on the circumstantial evidence and even though the evidence in respect of the present applicant may appeared to be small, that evidence will establish the chain of circumstances to prove the offence of murder.

5) From the Post mortem reports also, it becomes clear that Dilip Thakur was killed by blow of knife while Navratan Bafna was found strangulated. Both the dead bodies were found buried near the spot and the car was left at short distance from the spot of incident. The present applicant and Sandip Patil went together to purchase knife and the knife was recovered on the basis of information given by Sandip. The spade and iron pot (ghamela) used for digging the land and for burying the dead bodies were recovered at the instance of accused, Babu Shaikh. Even though at present no medical certificate is available. The arrest panchanama of the present applicant reveals that there was some contusion on the dorsal side of the hand and it could be caused with nylon

rope at the time of strangulating the person.

6) Mr. Shinde, learned APP informed that investigation officer of this case has been suspended and the officer who is now available is not in a position to state whether the present applicant was referred for medical examination or not. Atleast along with the chargesheet which is filed in the Court, no medical certificate is produced. Seizure of mobile hand-set of Navratan Bafna from the house of the present applicant on the basis of information given by him, is a material and important evidence in this chain of circumstances.

7) Taking into consideration the circumstances and the fact that two persons were murdered, I find that it will not be in the interest of justice to grant bail. If the bail is granted, possibility of tampering with the evidence of prosecution cannot be ruled out.

8) For the aforesaid reason, application stands rejected.

(J.H. BHATIA, J.)